

GAHC010246772023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Bail Appln./3951/2023

SEKENDAR ALI
S/O LATE NUR HUSSAIN BEPARI, R/O VILL- KUCHNIMARA, P.S.-
MANKACHAR, DIST-SOUTH SALMARA MANKACHAR, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. M AHMED

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

08.11.2023

Heard Mr. M. Ahmed, learned counsel for the petitioner. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor, Assam.

This application under section 439 of the Code of Criminal Procedure, 1973 has been filed by the petitioner, namely, Sekendar Ali, who has been

detained behind the bars since 19.06.2023 in connection with PRC Case No. 1145/2023, arising out of the Mankachar Police Station Case No. 745/2020 under Sections 376D/506 of the Indian Penal Code.

It is submitted by the learned counsel for the petitioner that the petitioner is detained in the Dhubri District Jail, whereas, the PRC case is pending before the Court of learned Chief Judicial Magistrate, South Salmara Mankachar. However, the present petitioner could not be physically produced before the learned Committal Court due to the non-availability of boat/vehicle to carry the petitioner from District Jail, Dhubri to the learned Committal Court at South Salmara, Mankachar.

It also appears from the record of this Court that on 26.10.2023, this Court directed the learned Additional Public Prosecutor to seek instructions from the Superintendent of Police regarding the fact of this case as to why the administration has failed to produce the petitioner physically before the learned Committal Court when it was so directed by the learned Committal Court.

Today, learned Additional Public Prosecutor has submitted that he has been informed by the Officer-In-Charge of Mankachar Police Station that the petitioner has been regularly produced before the learned Committal Court through video-conferencing. However, he was not produced physically before the Committal Court. On perusal of the copies of the order passed by the learned Committal Court on 20.09.2023, 04.10.2023 and 07.11.2023 passed in PRC Case No. 1145/2023, it appears that the Committal Court has been repeatedly issuing directions to the Jail Authority for production of the petitioner before the learned Committal Court so that the case may be committed to the Court of Sessions Judge, South Salmara.

However, inspite of repeated directions, said order has not been complied

with. The petitioner was only produced through the mode of video-conferencing.

In view of the facts and circumstances of this case, this bail application is hereby disposed of with a direction to the District Administration, South Salmara to physically produce the petitioner before the learned Committal Court on the next date fixed on 20.11.2023, so that the case may be committed to the Court of learned Sessions Judge, South Salmara.

The petitioner, may thereafter approach the Court of learned Sessions Judge, South Salmara and pray for regular bail before the said Court, if so advised.

A copy of this order shall be furnished to the concerned authorities by the Registry of this Court.

JUDGE

Comparing Assistant